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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, ) CR 09-0973 JSW

Plaintiff,

v.

DONALD THOMAS TOSTI,

Defendant.

**STIPULATION AND ~~PROPOSED~~  
ORDER EXCLUDING TIME**

On January 7, 2010, the parties in this case appeared before the Court for a hearing on the United States' motion for review of the magistrate judge's release order. The parties stipulated and the Court agreed that time should be excluded from the Speedy Trial Act calculations from January 7, 2010, through March 25, 2010, for continuity and effective preparation of defense counsel. The parties represented that granting the continuance would allow the reasonable time necessary for effective preparation of defense counsel, taking into account the exercise of due diligence. *See* 18 U.S.C. § 3161(h)(7)(B)(iv). The parties agreed that the ends of justice served by granting such a continuance outweighed the best

interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A).

The parties further agreed that the time period from January 28, 2010, through March 25, 2010, is also excluded from Speedy Trial Act calculations by operation of law. 18 U.S.C. § 3161(h)(1)(D).

SO STIPULATED:

JOSEPH P. RUSSONIELLO  
United States Attorney

/s/

DATED: January 14, 2010

OWEN P. MARTIKAN  
Assistant United States Attorney

/s/

DATED: January 14, 2010

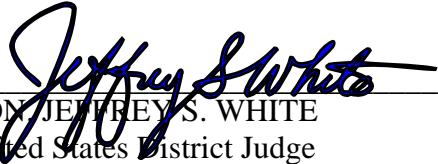
DANIEL BLANK  
Attorney for Donald Tosti

~~PROPOSED~~ ORDER

As the Court found on December 10, 2009, and for the reasons stated above, an exclusion of time from January 7, 2010, through March 25, 2010, is warranted because the ends of justice served by the continuance outweigh the best interests of the public and the defendant in a speedy trial. *See* 18 U.S.C. §3161 (h)(7)(A). The failure to grant the requested continuance would deny defense counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and would result in a miscarriage of justice. *See* 18 U.S.C. §3161(h)(7)(B)(iv). The time period from January 28, 2010, through March 25, 2010, is also excluded from Speedy Trial Act calculations by operation of law. 18 U.S.C. § 3161(h)(1)(D).

SO ORDERED.

DATED: January 15, 2010

  
HON. JEFFREY S. WHITE  
United States District Judge